

PUBLIC SESSION MINUTES
North Carolina State Board of CPA Examiners
April 19, 2004
1101 Oberlin Road
Raleigh, NC 27605

MEMBERS ATTENDING: Norwood G. Clark, Jr., CPA, President; Leonard W. Jones, CPA, Vice President; Arthur M. Winstead, Jr., CPA, Secretary-Treasurer; O. Charlie Chewning, Jr., CPA; Scott L. Cox, CPCU, CIC; Jordan C. Harris, Jr.; and R. Stanley Vaughan, CPA.

STAFF ATTENDING: Robert N. Brooks, Executive Director; J. Michael Barham, CPA, Deputy Director; Lisa R. Hearne, Manager-Communications; Ann J. Hinkle, Manager-Professional Standards; Buck Winslow, Manager-Licensing; and Noel L. Allen, Legal Counsel.

GUESTS: James T. Ahler, Executive Director, NCACPA; Sharon Bryson, Deputy Director, NCACPA; Tom Chenoweth, CPA, Highland Publishing Company; Jim Holmes, Past President, NCSA; and Donna Salter, Director of Professional Development, NCACPA.

CALL TO ORDER: President Clark called the meeting to order at 10:00 a.m.

MINUTES: The minutes of the March 24, 2004, meeting were approved as submitted.

FINANCIAL AND BUDGETARY ITEMS: The financial statements for March 2004 were accepted as submitted.

LEGISLATIVE AND RULE-MAKING ITEMS: Messrs. Jones and Cox moved to approve, for rule-making, a proposed rule for a two (2)-hour ethics course as part of the annual forty (40)-hour CPE requirement. Motion failed with one (1) affirmative vote and six (6) negative votes.

Messrs. Vaughan and Winstead moved to approve, for rule-making, a proposed rule for a two (2)-hour group study format or four (4)-hour self-study format ethics course as part of the annual forty (40)-hour CPE requirement. Motion passed with five (5) affirmative votes, one (1) negative vote, and one (1) abstention.

REPORT OF THE PROFESSIONAL STANDARDS COMMITTEE: Mr. Vaughan moved and the Board approved the following recommendations of the Committee:

200309-041 - Theodore E. Peterson - Approve the signed Consent Order (Appendix I).
200403-010 - Peter Richard Gray - Approve the signed Consent Order (Appendix II).
200403-011 - Joel Moran Wilson - Approve the signed Consent Order (Appendix III).
9907-058 - Close the case without prejudice.

200312-074 - Close the case without prejudice.
200307-027 - Close the case without prejudice.

Messrs. Vaughan and Chewning moved to approved the Consent Order for Christopher Mandaleris, Case No. 200312-073. The motion passed with five (5) affirmative votes and two (2) negative votes (Appendix IV).

REPORT OF THE PROFESSIONAL EDUCATION AND APPLICATIONS COMMITTEE:
Mr. Cox moved and the Board approved the following recommendations of the Committee:

Transfer of Grades Applications - The following were approved:

Rebecca Anne Slattery

Original Certificate Applications - The following were approved:

Charles Everett Barlow
David A. Bartley
Paul John Brenan
Susan Margaret Brim
Melissa D. Brown
John Raymond Burlinson
Huiping Chen
Trisha Ramsey Cody
Ray Edward Crouse Jr.
Joseph Michael Galante
David Austin Jakeman
Debra Ann Jett
Heather Leigh Jewell
Chasity Michelle Johnson
Kimberly A. Kelley

Wayne Alexander Martin
Marisa Dorothea Matthews
Kimberly Jean Medlin
Jimmie Russell Mincey
Mary Helen Nance
Tricia M. Oles
Susan Edmonds Palmer
Susan Scott Pierce
Tiesha Simone Pope
Steven Jon Shropshire
Rebecca Anne Slattery
Anna Worley Townsend
Thu Thuy Tran
Elizabeth Carver Warren
Jennifer Wilson Yaudes

Reciprocal Certificate Applications - The following were approved:

Laura P. Abbondanza
Shaun Martin Bawden
Jane Cook Benson
Arthur Brickman
Matthew Spencer Hewes
Deborah Lynn Kaufman
William R. Kavanaugh
Michael Paul Nickolas

Brian Patrick Regan
Deborah A. Smink
Craig Steven Smith
Leslie Fraser Staples
Steven O. Swyers
Thomas Britt Taylor
Lisa Lynn Thompson

Temporary Permits - The following temporary permits were approved by the Executive Director and ratified by the Board:

Alfred Richard Koenenn Jr. T03023
Paula Renee Koontz Paquin T03024
Christopher Anthony Ricchiuto T03025
Brian Russell Dubay T03026
Michael Lee Richards T03027
Charles Thomas Smith III T03028
Glenda J. Blasko T03029

Jeffrey Dean Clevinger T03030
David Gerard Fix T03031
Erik C. Lioy T03032
Jeffrey H. Moon T03033
Tammy A. Moon T03034
Timothy Scott Naylor T03035

Reinstatements - The following were approved:

Michelle Gero Ellsworth #28401
David Joseph Piscorik #28006
Patti Darlene Davis Royster #24374

Fernanda Simone Tiu #21646
Sarah Ann Zinzer #29664

Reissuance of New Certificate - An application for reissuance of new certificate and consent agreement submitted by Ann W. Bemis (#11983) was approved.

Firm Registrations - The following professional corporations, professional limited liability companies, and limited liability partnerships were approved by the Executive Director and ratified by the Board:

ALLISON & CHUMNEY, P.C.
C.A.CARTER CPA PLLC
Clifton Gunderson LLP
Will Crook, CPA, PA
FLACKMAN, GOODMAN & POTTER,
PROFESSIONAL ASSOCIATION
ANDREW GLICKLER, CPA, PLLC
LeBlanc CPA Limited
Alayna M Manville CPA PC

Matthews & Dracup, LLP
David Norris, CPA, PC
PADDEN, GUERRINI & ASSOCIATES, P.C.
POPE, SMITH, BROWN & KING, P.A.
STEPHEN K. PORTER, CPA P.A.
Virchow, Krause & Company, LLP
WINKLER & WINKLER CERTIFIED
PUBLIC ACCOUNTANTS, PC

The Committee reviewed a scenario presented by staff regarding firm names.

Reclassifications - The Committee approved the following requests for retired status because the individuals are completely retired and do not receive any earned compensation for current personal services in any job whatsoever:

Teresa M. Ameen #9459
Thomas L. Meyn #15197

William H. Starnes Jr. #21708

Extension Requests - The Committee approved the following individuals for extension for completion of CPE until the dates noted:

Dale Andrew Cline #13045 (6/30/04)

Mary Kate Cline #13487 (6/30/04)

Examinations- Initial examination candidate Gretchen E. Hamm requested and was granted time and a half for each section of the examination due to a learning disorder. The doctor's evaluation suggested double time. Ms. Hamm then requested that the Committee grant her double time. The Committee approved her request.

The Committee reviewed and approved the following staff approved applicants to sit for the CPA Examination:

Tonia Monique Abbott
Linda Marie Baugher
Mason Tyler Beaumont
Michael Paul Berens
Robert D. Bibler
Michael S. Birky
William B. Blanton
Amy Catherine Bonnette
Yelena Nikolayevna Boyeva
Thomas Patrick Boyle
Jennifer M. Bragg
Lindsay Jean Bricolo
Bridget A. Brogan
Jaime L. Brown
Matthew R. Brown
Randall D. Brummett
James C. Buck III
Angela D. Buckner
Meghan C. Burns
James Allen Canady
Marcus W. Canady
Jackie Roberts Casey
Maria Chernuskaya Casey
Yuliya Chayun
Karen Y. Chen
Sarita Padam Chheda
Ben M. Childs
Nathan Alden Chrisawn
Amy Marie Cline

Lori E. Cline
Mark G. Cole
Stephanie M. Coleman
Jamie M. Collins
Christopher C. Conoley
Paul L. Constantino
Wesley Allen Cook
Curtis J. Cortes
Avaleen Keisha Crawford
Drew Paul Crawford
Joanne E. Crist
Brian Michael Crossland
Bronnie E. Cummings
Kara Lynne Davenport
Leroy Davis Jr.
Melanie Suzanne DeMotts
Christopher Dickman
Kelli Nicole Dorr
Joshua Thomas Downs
Benjamin W. Duckett
Jeffrey S. Dudley
Terry R. Duncan
Carrie Lynne Dyckman
Bradford Allen Eggleston
Yasmine S. El-Ramly
Jamie Lynn Engel
David Taylor Enick
McFerrin Justin Falck
Jonathan M. Fenton

Amy Lynn Ford
Anytra D. Foster
Jessica L. Gastmeyer
Benjamin E. Geers
Kimberly Ann Girdwood
Micaela K. Glenn
Gary Goodworth
Jeffrey K. Graham
Katherine S. Grant
Benjamin ForsytheGelinas Gray
Heather M. Guenther
Gretchen Edwards Hamm
Christopher R. Harrison
Amy Sanders Hendren
Kristi Koonts Hubacher
Beverly Leigh Hudler
Gregory E. Husted
Reece C. Hutcherson II
Eric J. Hyman
Bharati S. Javalkar
Tajuanda A. Jenkins
Min Ji
Danielle Smith Job
Belinda Lynn Johnson
Cynthia Dawn Johnson
Dallas C. Johnson
Scott Edward Kauffman
John Michael Kledis
Yolande S. Koval
John J. Kramer III
Ryan M. Lally
Alyson McCoy Lanier
Jewel A. Lasater
Casey W. Lawing
David Lee Little
Hua Liu
ZhenZi Liu
Leslee B. Loggans
Howard L. Lucas
Karen Diane Ludwick
Sonja M. Martin
Stacey S. Martin
Elizabeth A. Mast

Misty D. Matthews
Kristi A. McCracken
Apryl W. McCraw
Tracie A. McDonald
Joy Denise McKoy
Ellen C. McNally
Jennifer L. Meeks
Fareena S. Mehdi
Sarah Melissa Minton
Christopher N. Mitchell
Samuel G. Monteith
Mary Diane Morrison
Joy C. Munns
Joshua T. Munsey
Katherine Anne Murphree
Stephanie L. Newberry
Bethany Ann Osborne
Latoya Owens
Min Y. Pak
Ashley A. Palmer
Lloyd Roddesie Patillo
Wendy G. Peetes
Matthew S. Perry
Robert E. Poole II
Jill H. Pope
Lisa C. Rash
Todd Tompkins Ravin
Teresa Reed
Justin Alexander Reese
Cassandra D. Robinson
Gina Marie Santore
Clint J. Saunders
Kendall G. Scales
Christopher J. Schneider
Andrea L. Schoch
Erica J. Schroeder
Christopher D. Seaman
Nisha C. Sheth
Tameeka Monique Shorter
Meredith Nicole Singletary
Chad R. Smith
Dara L. Southard
Vivian Simone Spencer

James Linton Starling
Matthew R. Stuart
Christopher H. Summer
Holly M. Suttles
Leslie D. Sutton
David C. Swaim
Joshua A. Thomas
Nashica I. Thompson
Julie Kay Tingen
Richard C. Tirrell
Kristy S. Tomasetti
Tammy L. Tripp
Van V. Trivette

Marjorie M. Tyler
Katie M. Tymann
James Will Vannoy
Maurice Joseph Vaz
Tracy B. Wagner
Stephanie A. Whaley
Lori Marie Williams
Barbara J. Willingham
David Christopher Willis
Sandra Allison Wilson
Laverne M. Wimbush
Yen Chun Wu
Salman Yusaf

PUBLIC HEARING: President Clark moved to convene the Public Hearing scheduled to hear Case No. 20013-012 – J. Derek Barnes. Testimony was taken from J. Derek Barnes and Josh Zelmo. Messrs. Vaughan and Harris moved to approve a Board Order for Mr. Barnes (Appendix V). The motion passed with seven (7) affirmative votes and zero (0) negative votes. The entire Public Hearing is a matter of public record.

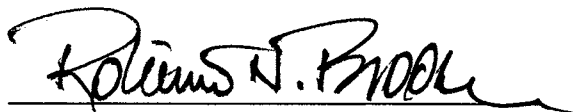
CLOSED SESSION: Messrs. Vaughan and Cox moved to enter Closed Session to discuss, without Staff or Legal Counsel, the matters of the Public Hearing. The Board then requested that Legal Counsel and Mr. Barnes' attorney enter the Closed Session to discuss the Public Hearing. The Board re-entered Public Session to conclude the matter. Messrs. Cox and Harris moved to re-enter Closed Session, without Staff or Legal Counsel, to discuss personnel matters.

PUBLIC SESSION: The Board re-entered Public Session to continue with the Agenda.

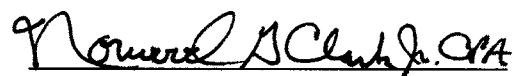
ADJOURNMENT: Messrs. Vaughan and Jones moved to adjourn the meeting at 4:05 p.m. Motion passed.

Respectfully submitted:

Attested to by:



Robert N. Brooks
Executive Director



Norwood G. Clark, Jr., CPA
President

NORTH CAROLINA
WAKE COUNTY

BEFORE THE NORTH CAROLINA STATE BOARD OF
CERTIFIED PUBLIC ACCOUNTANT EXAMINERS
CASE #: 200309-041

IN THE MATTER OF:
Theodore E. Peterson, Jr., #3979
Respondent

CONSENT ORDER

THIS CAUSE, coming before the Board at its offices at 1101 Oberlin Road, Raleigh, Wake County, North Carolina, with a quorum present. Pursuant to NCGS 150B-41 and 150B-22, the Board and Respondent stipulate the following Findings:

1. Respondent was the holder of North Carolina certificate number 3979 as a Certified Public Accountant.
2. On August 26, 2003, Respondent was indicted on eight (8) counts alleging that he falsified accounting reports sent to the United States Department of Housing and Urban Development (HUD). (Exhibit 1)
3. On January 9, 2004, pursuant to a plea agreement Respondent pleaded guilty to one count of making a false statement in violation of 18 U.S.C. § 1001. (Exhibit 2) More specifically, Respondent knowingly and willfully made false and fraudulent statements in that he issued and signed, as a certified public accountant, an audit opinion letter in which he stated that he had conducted the audit in accordance with Government Auditing Standards ("GAGAS") when Respondent knew that his CPA certificate had earlier been suspended by this Board and further knew that he had not conducted the audit in accordance with relevant standards and guidelines.
4. Respondent wishes to resolve this matter by consent and agrees that the Board staff and counsel may discuss this Order with the Board *ex parte*, whether or not the Board accepts this Order as written.

BASED upon the foregoing, the Board makes the following Conclusions of Law:

1. Respondent is subject to the provisions of Chapter 93 of the North Carolina General Statutes (NCGS) and Title 21, Chapter 8 of the North Carolina Administrative Code (NCAC), including the Rules of Professional Ethics and Conduct promulgated and adopted therein by the Board.

Consent Order - 2

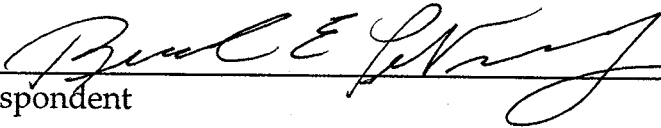
Theodore E. Peterson, Jr.

2. Respondent's actions as set out above constitute violations of NCGS 93-12 (9)a and e, and 21 NCAC 8N .0201, .0202, .0203, .0204, .0209, .0403, and .0405.

BASED on the foregoing and in lieu of further proceedings under 21 NCAC Chapter 8C, the Board and Respondent agree to the following Order:

1. The Certified Public Accountant certificate issued to Respondent, Theodore E. Peterson, Jr., is hereby permanently revoked.

CONSENTED TO THIS THE 29 DAY OF March, 2004.


Respondent

APPROVED BY THE BOARD THIS THE 19 DAY OF APRIL, 2004.

NORTH CAROLINA STATE BOARD OF CERTIFIED
PUBLIC ACCOUNTANT EXAMINERS

BOARD
SEAL

BY: 
President

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

03 AUG 25 PM 4:01

U.S. DISTRICT COURT
W. DISTRICT OF N.C.

UNITED STATES OF AMERICA)

DOCKET NO. 3:03-cr-142-MCK

BILL OF INDICTMENT

v.)

Violations: 18 U.S.C. § 1001

18 U.S.C. § 1010

THEODORE E. PETERSON, JR.)

18 U.S.C. § 2(a) & 2(b)

THE GRAND JURY CHARGES THAT:

INTRODUCTORY PARAGRAPHS

At all times material to this indictment:

1. Theodore E. Peterson, Jr. (PETERSON), defendant herein, falsely represented in an audit opinion letter and auditor's reports that he was a certified public accountant (CPA) in good standing with the State of North Carolina, and that he had performed an independent audit of First Beneficial Mortgage Corporation's (FBMC's) financial statements, internal control structure, and compliance with the requirements of specific major government assisted mortgage programs.
2. When issuing his audit opinion and audit reports, PETERSON knew that FBMC was authorized by the Government National Mortgage Corporation ("Ginnie Mae"), a corporation wholly owned by the United States and administered by the United States Department of Housing and Urban Development (HUD), to issue mortgage-backed securities guaranteed by the United States and sold to investors on the secondary mortgage market. PETERSON also knew that FBMC was authorized by HUD to make Federal Housing Administration (FHA) insured mortgage loans. PETERSON further knew that in order for FBMC to maintain its authority to issue Government guaranteed mortgage-backed securities and FHA insured mortgage loans, FBMC was required to submit to HUD an independent auditor report of its financial statements, internal control structures, and compliance with major HUD program requirements. HUD relied on PETERSON's representations in his audit opinion letter and reports that PETERSON had performed audits of FBMC's financial statements, internal control structure, and compliance with HUD program requirements when it permitted FBMC to issue approximately \$50 million in Government guaranteed securities and FHA insured mortgage loans. Contrary to his written representations, however, PETERSON was not a certified public accountant in good standing with the State of North Carolina and had not performed audits as represented in his opinion letter and reports. During the period in which

HUD relied on PETERSON's false representations, FBMC issued over 10 million dollars in Government guaranteed securities backed by false and fictitious mortgages.

3. In his audit opinion letter and reports to the Directors of FBMC, which letter and reports PETERSON intended for HUD's information and use, PETERSON stated that he was a "Certified Public Accountant," when in fact PETERSON then well knew that his certification as a public accountant in North Carolina had been suspended.
4. In an audit opinion letter to the Directors of FBMC, which letter PETERSON intended for HUD's information and use, PETERSON stated that he had conducted his "audit" of FBMC's financial statements in accordance with *Government Auditing Standards* ("GAS") which statement meant that PETERSON performed independent tests and verification of FBMC's management's representations as to FBMC's financial condition. PETERSON further stated his opinion that FBMC's financial statements were "free of material misstatement." Contrary to his written representations, however, PETERSON did not examine the financial statements of FBMC on a test basis and, therefore, could not have reached the opinion that FBMC's financial statements were "free of material misstatement." If PETERSON had conducted the required tests and verifications, he would have discovered that FBMC's financial statements were not free of material misstatements in that they omitted the disclosure that FBMC's management was creating fictitious and fraudulent mortgages and that FBMC had received millions of dollars from the sale of Ginnie Mae securities, backed by fictitious and fraudulent mortgages.
5. In his report entitled "Independent Auditor's Report on Compliance With Specific Requirements Applicable to Nonmajor (sic) HUD Program Transactions" ("Non-Major Programs Report"), which report PETERSON intended for HUD's information, PETERSON stated that he performed auditing procedures in accordance with the *Consolidated Audit Guide for Audits of HUD Programs* (the "HUD Guide"). Although PETERSON's report disclosed that his procedures were less than that required to express an audit opinion, he did state that he had performed some "auditing procedures" to test FBMC's compliance with HUD requirements governing federal financial reports, eligibility to issue mortgage-backed securities, custodial documents, administration of pooled mortgages, monthly accounting reports and quarterly submissions and other matters. PETERSON further stated that the results of his tests disclosed no instances of noncompliance that are required to be reported under the HUD Guide. Contrary to the representations in his Non-Major Programs Report, however, PETERSON did not conduct auditing procedures or tests of FBMC's compliance with HUD requirements governing Ginnie Mae custodial documents, administration of pooled mortgages, or monthly accounting reports and quarterly submissions. If PETERSON had conducted auditing procedures or tests of FBMC's handling of Ginnie Mae custodial documents, administration of pooled mortgages, or monthly accounting reports and quarterly submissions as required by the HUD Guide, he would have discovered that was creating and using fictitious and fraudulent mortgages to issue Ginnie Mae mortgage-backed securities, failed to remit FHA mortgage insurance premiums to HUD, and falsified monthly and quarterly accounting reports to Ginnie Mae.

6. In his audit report entitled "Independent Auditor's Report on [FBMC's] Internal Control Structure" (hereinafter "Internal Control Audit"), which PETERSON intended for HUD's information and use, PETERSON stated that he had conducted his Internal Control Audit in accordance with generally accepted auditing standards, GAS and the HUD Guide. According to PETERSON's Internal Control Audit Report, the objectives of internal controls are, in part, to provide management with reasonable assurances that "transactions are executed in accordance with management's authorization and recorded properly to permit preparation of financial statements in accordance with generally accepted accounting principles and the HUD-assisted programs are managed in compliance with applicable laws and regulations." PETERSON's Report on FBMC's Internal Control Structures, while not expressing an opinion, stated that PETERSON had performed tests of FBMC's internal controls as required by GAS the HUD Guide. PETERSON's Internal Control Audit Report further stated that PETERSON has "noted no matters involving internal control and its operation that [PETERSON] consider[ed] to be material weaknesses as defined [in the Report]. A "material weakness," according to PETERSON, includes conditions relating to FBMC's ability to detect "noncompliance with laws and regulations that would be material to a HUD-assisted program." Contrary to the representations in his Internal Control Audit Report, however, PETERSON did not conduct an audit of FBMC's internal controls in accordance with GAS and the HUD Guide, perform independent tests of FBMC's internal controls; or even discuss FBMC internal controls with FBMC employees other than its President. If PETERSON had conducted an audit of FBMC's internal controls as required by GAS and the HUD Guide or performed independent tests and verifications, he would have discovered that FBMC's internal control structure and procedures were not in compliance with HUD standards in that, among other deficiencies, FBMC was creating and using fictitious and fraudulent mortgages to issue Ginnie Mae mortgage-backed securities, failed to remit FHA mortgage insurance premiums to HUD, and falsified monthly reports to Ginnie Mae regarding the amount of mortgage payments it collected and the number of its delinquent mortgage loans.
7. In his audit report entitled "Independent Auditor's Report on [FBMC's] Compliance With Specific Requirement Applicable to Major HUD Program[s]," (hereinafter "Compliance Audit"), which PETERSON intended for HUD's information and use, PETERSON stated that he had conducted his Compliance Audit in accordance with generally accepted auditing standards, GAS and the HUD Guide. In his Compliance Audit, PETERSON purportedly examined FBMC's compliance with specific HUD program requirements, including FBMC's Loan Origination, Loan Servicing, and Mortgagee Approval functions, among others. PETERSON further states that he examined, "on a test basis," evidence of FBMC's compliance with these specific program requirements. PETERSON stated that his Compliance Audit provided "a reasonable basis" for his opinion that FBMC had complied, "in all material respects," with the specific HUD program requirements described above. Contrary to the representations in his Compliance Audit Report, however, PETERSON did not conduct an audit of FBMC's compliance with these specific HUD programs, perform tests or independent verification of FBMC's compliance, or even discuss FBMC compliance with FBMC employees other than its President. If PETERSON had conducted an audit of FBMC's compliance with specific HUD programs as required by GAS and the HUD Guide or performed independent tests and verifications, he would have discovered that FBMC was not

in compliance with HUD program requirements in that, among other deficiencies, FBMC was originating fictitious and fraudulent mortgages and falsifying reports to Ginnie Mae in order to create the appearance that it was servicing millions of dollars in mortgages that did not in fact exist.

COUNT ONE

8. Introductory Paragraphs 1 through 7 of this Bill of Indictment are hereby realleged and incorporated herein by reference into Count One.
9. Between on or about April 29, 1999, and on or about May 28, 1999, in Mecklenburg County and elsewhere, in the Western District of North Carolina and elsewhere, the defendant

THEODORE E. PETERSON, JR.

aided and abetted by others known and unknown to the grand jury, in a matter within the jurisdiction of the United States, namely, Ginnie Mae and HUD, knowingly and willfully made and caused to be made, false and fraudulent material statements and representations, in that the defendant issued and signed an audit opinion letter to the Directors of FBMC, which the defendant intended for HUD's information and use, stating that the defendant was a certified public accountant and had conducted an audit of FBMC's financial statements in accordance with GAS and the HUD Guide, as more specifically stated in the Introductory Paragraphs of this Bill of Indictment, when the defendant then and there well knew that his certification as a public accountant had been suspended and he did not conduct an audit as represented in his audit opinion letter.

All in violation of Title 18, United States Code, Sections 1001 and 2(a) and 2(b).

COUNT TWO

10. Introductory Paragraphs 1 through 7 of this Bill of Indictment are hereby realleged and incorporated herein by reference into Count Two.
11. Between on or about April 29, 1999, and on or about May 28, 1999, in Mecklenburg County and elsewhere, in the Western District of North Carolina and elsewhere, the defendant

THEODORE E. PETERSON, JR.

aided and abetted by others known and unknown to the grand jury, in a matter within the jurisdiction of the United States, namely, Ginnie Mae and HUD, knowingly and willfully made and caused to be made, false and fraudulent material statements and representations, in that the defendant issued and signed the Non-Major Programs Report, which the defendant intended

for HUD's information, stating that the defendant was a certified public accountant and had conducted auditing procedures to test FBMC's compliance with HUD requirements governing federal financial reports, eligibility to issue mortgage-backed securities, custodial documents, administration of pooled mortgages, monthly accounting reports and quarterly submissions and other matters, when the defendant then and there well knew that his certification as a public accountant had been suspended and he did not conduct auditing procedures to test FBMC's compliance with HUD requirements governing federal financial reports, eligibility to issue mortgage-backed securities, custodial documents, administration of pooled mortgages, monthly accounting reports and quarterly submissions and other matters.

All in violation of Title 18, United States Code, Sections 1001 and 2(a) and 2(b).

COUNT THREE

12. Introductory Paragraphs 1 through 7 of this Bill of Indictment are hereby realleged and incorporated herein by reference into Count Three.
13. On or about September 14, 1999, in Mecklenburg County and elsewhere, in the Western District of North Carolina and elsewhere, the defendant

THEODORE E. PETERSON, JR.

aided and abetted by others known and unknown to the grand jury, in a matter within the jurisdiction of the United States, namely, Ginnie Mae and HUD, knowingly and willfully made and caused to be made, false and fraudulent material statements and representations, in that the defendant issued and signed the Internal Controls Audit Report, which the defendant intended for HUD's information and use, stating that the defendant was a certified public accountant and had conducted an audit of FBMC's Internal Controls in accordance with GAS and the HUD Guide, as more specifically stated in the Introductory Paragraphs of this Bill of Indictment, when the defendant then and there well knew that his certification as a public accountant had been suspended and he did not conduct an audit of FBMC's Internal Controls as represented in his Internal Controls Audit Report.

All in violation of Title 18, United States Code, Sections 1001 and 2(a) and 2(b).

COUNT FOUR

14. Introductory Paragraphs 1 through 7 of this Bill of Indictment are hereby realleged and incorporated herein by reference into Count Four.

15. On or about September 14, 1999, in Mecklenburg County and elsewhere, in the Western District of North Carolina and elsewhere, the defendant

THEODORE E. PETERSON, JR.

aided and abetted by others known and unknown to the grand jury, in a matter within the jurisdiction of the United States, namely, Ginnie Mae and HUD, knowingly and willfully made and caused to be made, false and fraudulent material statements and representations, in that the defendant issued and signed his Compliance Audit Report, which the defendant intended for HUD's information and use, stating that the defendant was a certified public accountant and had conducted an audit of FBMC's compliance with certain major HUD-assisted program requirements in accordance with GAS and the HUD Guide, as more specifically stated in the Introductory Paragraphs of this Bill of Indictment, when the defendant then and there well knew that his certification as a public accountant had been suspended and he did not conduct an audit of FBMC's Compliance with certain major HUD-assisted program requirements as represented in his Compliance Audit Report.

All in violation of Title 18, United States Code, Sections 1001 and 2(a) and 2(b).

COUNT FIVE

16. Introductory Paragraphs 1 through 7 of this Bill of Indictment are hereby realleged and incorporated herein by reference into Count Five.
17. Between on or about April 29, 1999, and on or about May 28, 1999, in Mecklenburg County and elsewhere, in the Western District of North Carolina and elsewhere, the defendant

THEODORE E. PETERSON, JR.

aided and abetted by others known and unknown to the grand jury, for the purpose of influencing the action of HUD with respect to its oversight of FBMC, did make, pass, utter, and publish a materially false statement knowing the same to be false, to wit: an audit opinion letter to the Directors of FBMC, which the defendant intended for HUD's information and use, stating that the defendant was a certified public accountant and had conducted an audit of FBMC's financial statements in accordance with GAS and the HUD Guide, as more specifically stated in the Introductory Paragraphs of this Bill of Indictment, when the defendant then and there well knew that his certification as a public accountant had been suspended and he did not conduct an audit as represented in his audit opinion letter.

All in violation of Title 18, United States Code, Sections 1010 and 2(a) and 2(b).

COUNT SIX

18. Introductory Paragraphs 1 through 7 of this Bill of Indictment are hereby realleged and incorporated herein by reference into Count Six.
19. Between on or about April 29, 1999, and on or about May 28, 1999, in Mecklenburg County and elsewhere, in the Western District of North Carolina and elsewhere, the defendant

THEODORE E. PETERSON, JR.

aided and abetted by others known and unknown to the grand jury, for the purpose of influencing the action of HUD with respect to its oversight of FBMC, did make, pass, utter, and publish a materially false statement knowing the same to be false, to wit: his Non-Major Programs Report, which the defendant intended for HUD's information, stating that the defendant was a certified public accountant and had conducted auditing procedures to test FBMC's compliance with HUD requirements governing federal financial reports, eligibility to issue mortgage-backed securities, custodial documents, administration of pooled mortgages, monthly accounting reports and quarterly submissions and other matters, as more specifically stated in the Introductory Paragraphs of this Bill of Indictment, when the defendant then and there well knew that his certification as a public accountant had been suspended and he did not conduct auditing procedures as represented in the Non-Major Programs Report.

All in violation of Title 18, United States Code, Sections 1010 and 2(a) and 2(b).

COUNT SEVEN

20. Introductory Paragraphs 1 through 7 of this Bill of Indictment are hereby realleged and incorporated herein by reference into Count Seven.
21. On or about September 14, 1999, in Mecklenburg County and elsewhere, in the Western District of North Carolina and elsewhere, the defendant

THEODORE E. PETERSON, JR.

aided and abetted by others known and unknown to the grand jury, for the purpose of influencing the action of HUD with respect to its oversight of FBMC, did make, pass, utter, and publish a materially false statement knowing the same to be false, to wit: his Internal Control Audit Report, which the defendant intended for HUD's information and use, stating that the defendant was a certified public accountant and had conducted an audit of FBMC's internal controls in accordance with GAS and the HUD Guide, as more specifically stated in the Introductory Paragraphs of this Bill of Indictment, when the defendant then and there well knew that his certification as a public accountant had been suspended and he did not conduct an audit as represented in his Internal Controls Audit Report.

All in violation of Title 18, United States Code, Sections 1010 and 2(a) and 2(b).

COUNT EIGHT

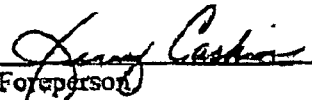
22. Introductory Paragraphs 1 through 7 of this Bill of Indictment are hereby realleged and incorporated herein by reference into Count Eight.
23. On or about September 14, 1999, in Mecklenburg County and elsewhere, in the Western District of North Carolina and elsewhere, the defendant

THEODORE E. PETERSON, JR.

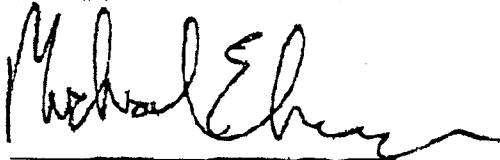
aided and abetted by others known and unknown to the grand jury, for the purpose of influencing the action of HUD with respect to its oversight of FBMC, did make, pass, utter, and publish a materially false statement knowing the same to be false, to wit: his Compliance Audit Report, which the defendant intended for HUD's information and use, stating that the defendant was a certified public accountant and had conducted an audit of FBMC's compliance with certain major HUD-assisted program requirements in accordance with GAS and the HUD Guide, as more specifically stated in the Introductory Paragraphs of this Bill of Indictment, when the defendant then and there well knew that his certification as a public accountant had been suspended and he did not conduct an audit as represented in his Compliance Audit Report.

All in violation of Title 18, United States Code, Sections 1010 and 2(a) and 2(b).

A TRUE BILL:


Foreperson

ROBERT C. CONRAD, JR.
UNITED STATES ATTORNEY



MICHAEL E. SAVAGE
ASSISTANT UNITED STATES ATTORNEY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

05 DEC 19 PM 3:28

UNITED STATES OF AMERICA

v.

(1) THEODORE E. PETERSON, JR.

DOCKET NO. 3:03CR142-Mek

PLEA AGREEMENT

U.S. DIST. CT. N.C.

NOW COMES the United States of America, by and through Robert J. Conrad, Jr., United States Attorney for the Western District of North Carolina, and the defendant, Theodore E. Peterson, Jr., in person and through counsel, Peter C. Anderson, and respectfully inform the court that they have reached the following agreement pursuant to Rule 11(c)(1)(C) of the Federal Rules of Criminal Procedure:

I. Plea

1. The defendant agrees to enter a voluntary plea of guilty to Count One as set forth in the Bill of Indictment, and admits to being in fact guilty as charged in that Count.
2. If the court finds the defendant's plea to be voluntary and knowingly made, and accepts the plea, then the United States will move at the appropriate time to dismiss Counts Two through Eight in the Bill of Indictment.
3. The defendant agrees that the court may consider any such dismissed count and all pertinent information as "relevant conduct," *United States Sentencing Guidelines* [U.S.S.G.] § 1B1.3. The court may also consider any dismissed count as a "conviction" for purposes of 28 U.S.C. §§ 1918 (costs of prosecutions, including fines and forfeitures), 920 (court costs, including fees for interpreters), as well as for purposes of forfeiture and restitution.

II. Sentence

4. The defendant is aware that the statutory maximum sentence for Count One which charges a violation of Title 18, United States Code, Sections 1001 and 2 is as follows:

Count One: a \$250,000 fine, no more than five years imprisonment, or both, and no more than three years supervised release. There is no mandatory minimum sentence.

However, pursuant to Rule 11(c)(1)(C) of the Federal Rules of Criminal Procedure, if the court accepts this plea agreement, the maximum punishment the court may impose in this case will be limited by the terms of this plea agreement. The defendant understands that not all the terms of this plea agreement are binding recommendations that must be accepted by the court. The court will not be bound by any provision of this agreement unless the

Exhibit 2

provision explicitly states that it is binding. Unless limited by a binding recommendation, the court may impose any form of punishment permitted by law.

5. Pursuant to Rule 11(c)(1)(C), Federal Rules of Criminal Procedure, the United States makes the following sentencing recommendations, which recommendation shall be binding on the court if the court accepts this plea agreement. The United States and the defendant agree that they will jointly recommend that the court make the following findings and conclusions as to the applicable United States Sentencing Commission Guidelines (the "Guidelines" or "U.S.S.G.") and the sentence to be imposed:
- a. The defendant's sentence should be calculated based on the Guidelines effective November 1, 1998, which are more favorable to the defendant than the current Guidelines.
 - b. With respect to loss, the parties stipulate and agree as follows:
 - i. The Government has no evidence that the defendant knew of, or participated in, the fraudulent schemes at First Beneficial Mortgage Corporation (FBMC), including the schemes to defraud the Government National Mortgage Association (GNMA).
 - ii. The defendant's false statements as alleged in Count One, including the defendant's representation that he had conducted audits in accordance with HUD regulations and Generally Accepted Audit Standards, when in fact he had not done so, was a prerequisite to GNMA's extension of FBMC's authority to issue mortgage-backed securities. GNMA relied on the defendant's audit letters and the representations therein when it decided to extend FBMC's authority to issue mortgage-backed securities guaranteed by the United States.
 - iii. The defendant's submission of audit letters on stationary, and over his signature, indicating that the defendant was a certified public accountant, when in fact his certification had been suspended by the State of North Carolina, was material to GNMA's reliance on the defendant's audit letters.
 - iv. After the defendant's submission of FBMC's audit letters, which state that they were intended for use by the United States, and based on other factors as well as the audit letters, FBMC issued approximately \$10 million in government guaranteed mortgage-backed securities collateralized by fictitious mortgages. The government's evidence shows that even the most minimal audit and verification by the defendant of the representations made by FBMC's management would have detected the fraud then in progress at FBMC. According to the government's evidence, if the defendant had notified GNMA of the possibility of fraud at FBMC, or even refused to provide unqualified audit letters on behalf of FBMC, GNMA would have suspended FBMC's commitment authority. The United States was forced to repurchase said securities at a cost in excess of \$10 million. The parties

agree that there are multiple causes for the losses in this case and that the defendant was not the primary cause of the government's losses.

- v. The defendant did not derive any benefit from FBMC's fraud, other than approximately \$5,500 paid to the defendant by FBMC as his fee for his audit reports.
- vi. Therefore, the loss foreseeable to the defendant is something less than \$10 million. (The defendant understands that "loss" under U.S.S.G. § 2F1.1 may be different from, greater, or lesser than "restitution" under 18 U.S.C. § 3556.)
- c. The parties agree that U.S.S.G. § 2F1.1 is most analogous to the defendant's offense. The base offense level under this Guideline is six (6). Losses between \$5 and \$10 million require an increase of 14 levels. However, where the court determines that losses overstate the seriousness of a defendant's offense, the court has authority to depart downward. By this agreement, the United States does not concede that the amount of losses alone in this case justify a downward departure.
- d. U.S.S.G. § 3B1.3 applies in this case because the defendant used a position of trust and special skill -- i.e. his former status as a certified public accountant -- to commit the charged offense. This Guideline requires an increase of two (2) levels.
- e. U.S.S.G. § 5K2.13 permits the court to depart downward if the defendant committed the offense while suffering from significantly reduced mental capacity. The parties agree that before and during the time of the charged offenses, the defendant was suffering from mental impairments that diminished his ability to make reasoned, informed decisions and to focus on critical tasks. The defendant's impairment did not result from the voluntary use of drugs or other intoxicants and the circumstances of the offenses and the defendant's behavior do not indicate that he was or is a danger to the public. The defendant agrees that his mental impairment was not of such severity as to give rise to an insanity defense. The defendant and his counsel also agree and affirm that the defendant is currently receiving treatment for his mental conditions and that he has the capacity to knowingly and voluntarily enter into this plea agreement.
- f. The defendant has provided the Government with the text of a written statement in which he acknowledges his offenses, admits that he is in fact guilty of the charged offense, and apologizes for his conduct. The defendant has agreed to publish this statement within 10 days of the entry of his plea, and the court's conditional acceptance of his plea, pursuant to this agreement. In addition, the defendant's plea is timely and has saved the Government significant resources in the prosecution of a case that would involve voluminous documents and expert testimony. Therefore,

under U.S.S.G. § 3B1.1(b)(2), the defendant should receive a three-level reduction in offense level.

g. No other Chapter Two or Three Enhancements apply. No other Chapter Five departures apply.

h. The defendant has no prior Criminal History known to the Government.

i. Based on the above, the offense level for the subject offense is as follows:

Base Offense Level [U.S.S.G. § 2F1.1]:	6
Additional Loss [U.S.S.G. § 2F1.1(b)(1)(L)]:	+14
Use of Special Skill [U.S.S.G. § 3B1.3]:	+ 2
Adjusted Offense Level:	22
Timely Acceptance of Responsibility:	- 3
	19

j. However, based on the mitigating circumstances described above, the parties agree and make the binding recommendation that an appropriate sentence for this defendant and the charged offense and relevant conduct is within Guideline offense level 13 and specifically that it is 12 months and one day and a fine of \$5,500. The parties agree that if the court accepts this plea agreement, the sentence will be adjudged as specified in the preceding sentence. Neither party will seek a departure from that range or sentence. Except for the binding terms above, the parties have no agreement limiting the court's discretion as to any other punishment authorized under Guideline Offense Level 13 or other applicable law.

6. The defendant agrees to pay full restitution if the court determines restitution is appropriate and factually supported, regardless of the resulting loss amount, which restitution will be included in the court's order of judgment. The defendant agrees that such restitution will include all victims directly or indirectly harmed by the defendant's "relevant conduct," including conduct pertaining to any dismissed counts or uncharged conduct, as defined by U.S.S.G. § 1B1.3, regardless of whether such conduct constitutes an "offense" under 18 U.S.C. §§ 3663 or 3663A. The defendant understands that with a Judgment and Commitment Order that requires the payment of restitution, a lien will be filed on his property. Defendant also understands that his obligation to make restitution shall last for twenty years after the entry of the judgment, release from imprisonment, or until his death. 18 U.S.C. § 3613. The parties have no agreement limiting the court's discretion with respect to restitution.

For the preparation of his Presentence Report, the defendant agrees to cooperate fully with and make a full disclosure of all current and projected assets and property to the United States Probation Office. If the defendant is ordered to serve a term of supervised release or probation, he agrees to make a full disclosure of his assets and property to the United States

Probation Office prior to the termination of his supervised release or probation. If the defendant should fail to make the aforementioned full disclosures, then the United States will be relieved of its obligations under the Plea Agreement, but the defendant will not be allowed to withdraw his guilty plea.

7. If more than \$500.00 in restitution, fines, and/or assessment is owed to the United States government, a lien will be filed. The defendant understands that if a lien is filed against his property, his obligation to pay restitution shall last for twenty years after any imprisonment ordered or until his death. 18 U.S.C. § 3613.
8. The defendant hereby agrees to pay the total amount required for assessment (\$100) to the Clerk, United States District Court, before 5:00 p.m. on the date of pleading guilty. The defendant further agrees to participate in the Inmate Financial Responsibility Program to the extent necessary to fulfill all financial obligations due and owing under this agreement and the law.
9. Within 10 days of the entry of his plea in court, the defendant will inform all professional accounting organizations of which he is a member, and any licensing authorities which may regulate the defendant's provision of public accounting services, of his plea and the offense to which he is pleading guilty immediately upon the Court's acceptance of his plea. The defendant will not perform public accounting services after entry of his plea, except to wind up services for existing clients under the supervision of a certified public accountant in good standing. The defendant agrees not to take any steps to seek reinstatement of his certification as a public accountant in the State of North Carolina or elsewhere until the completion of any period of supervised release imposed by the District Court as a result of his plea of guilty.

III. Procedure

10. The defendant agrees that a duly-qualified Federal Magistrate Judge may conduct the hearing required by Fed. R. Crim. P. 11.
11. With the court's permission, the factual basis, as required by Fed. R. Crim. P. 11(b)(3), will be deferred until the time of sentencing. The defendant stipulates that there is a factual basis for the plea of guilty and that the court may use the offense conduct set out in the Presentence Report, except any facts to which the defendant has objected, to establish a factual basis for the defendant's plea.

IV. Waivers

12. The defendant is aware that the law provides certain limited rights to withdraw a plea of guilty. The defendant has discussed these rights with defense counsel and knowingly and expressly waives any right to withdraw the plea once the court has accepted it.

13. The defendant acknowledges that Federal Rule of Criminal Procedure 11(f) and Federal Rule of Evidence 410 are rules which ordinarily limit the admissibility of statements made by a defendant in the course of plea discussions or plea proceedings if a guilty plea is later withdrawn. The defendant knowingly and voluntarily waives the rights which arise under these Rules. As a result of this waiver, he understands and agrees that any statements which are made in the course of his guilty plea or in connection with his cooperation pursuant to this plea agreement will be admissible against him for any purpose in any criminal or civil proceeding if his guilty plea is subsequently withdrawn.
14. The defendant understands and agrees that by pleading guilty, he is expressly waiving the following rights:
- a. to be tried by a jury;
 - b. to be assisted by an attorney at trial;
 - c. to confront and cross-examine witnesses; and,
 - d. not to be compelled to incriminate himself.
15. Defendant and defendant's counsel warrant that they have discussed: (a) defendant's rights pursuant to 18 U.S.C. § 3742, 28 U.S.C. § 2255, and similar authorities to contest a conviction and/or sentence through an appeal or post-conviction after entering into a plea agreement; (b) whether or not there are potential issues which might be relevant to an appeal or post-conviction action; and (c) the possible impact of any such issue on the desirability to the defendant of entering into this plea agreement.

Defendant, in exchange for the concessions made by the United States in this plea agreement, waives all such rights to contest the conviction and/or the sentence except for: (a) claims of ineffective assistance of counsel; (b) prosecutorial misconduct; or (c) the sentence, but only to the extent defendant contests the sentence that one or more findings on guideline issues were inconsistent with the explicit stipulations contained in any paragraph in the plea agreement filed herein, or on the basis of an unanticipated issue that arises during the sentencing hearing and which the District Judge finds and certifies to be of such an unusual nature as to require review by the Fourth Circuit Court of Appeals.

Also, in exchange for the concessions made by the United States, defendant agrees that the United States preserves all its rights and duties with respect to appeal as set forth in 18 U.S.C. § 3742(b), while the defendant waives all rights to appeal or collaterally attack the sentence of conviction with three the exceptions set for above. This agreement does not limit the United States in its comments in or responses to any post-conviction matters.

16. The defendant waives all rights, whether asserted directly or by a representative, to request or to receive from any department or agency of the United States any records pertaining to the investigation or prosecution of this case, including without limitation any records that may be sought under the Freedom of Information Act, 5 U.S.C. § 552, or the Privacy Act of 1974, 5 U.S.C. § 552a.

sought under the Freedom of Information Act, 5 U.S.C. § 552, or the Privacy Act of 1974, 5 U.S.C. § 552a.

17. This agreement does not bind the Internal Revenue Service (IRS) or limit the IRS or any other tax collecting agency in fulfilling their responsibilities, including the conduct of any present or future proceeding related to the assessment and collection of taxes, penalties, or interest. Further, nothing in this agreement shall be construed to bar the United States Department of Housing or Urban Development, or any other agency of the United States or any state agency from seeking any civil or administrative penalties and sanctions against the defendant, including, but not limited to, the imposition of debarment orders and/or the collection of civil or administrative fines, penalties or restitution.

V. Conclusion


18. The defendant understands that if he breaches this Plea Agreement, or violates any federal, state or local law, or any order of any court, including any condition of pre-trial or pre-sentence, or post-sentence release, the United States will be relieved of its obligations under this Plea Agreement, but the defendant will not be allowed to withdraw his guilty plea after the court accepts it. The United States will be free to proceed on any properly-filed dismissed, pending, superseding, or additional charges.
19. There are no agreements, representations, or understandings between the parties in this case, other than those explicitly set forth in this Plea Agreement and none will be entered into unless executed in writing and signed by all parties.

SO AGREED:

ROBERT J. CONRAD, JR., UNITED STATES ATTORNEY


MICHAEL E. SAVAGE, Assistant United States Attorney

DATED: 12/19/03


PETER C. ANDERSON, Attorney for Defendant

DATED: 12/19/03


THEODORE E. PETERSON, JR., Defendant

DATED: 12/19/03

NORTH CAROLINA
WAKE COUNTY

BEFORE THE NORTH CAROLINA STATE BOARD OF
CERTIFIED PUBLIC ACCOUNTANT EXAMINERS
CASE #: 200403-010

IN THE MATTER OF:
Peter Richard Gray, #23993
Respondent

CONSENT ORDER

THIS CAUSE, coming before the Board at its offices at 1101 Oberlin Road, Raleigh, Wake County, North Carolina, with a quorum present. Pursuant to NCGS 150B-41 and 150B-22, the Board and Respondent stipulate the following Findings:

1. Respondent is the holder of North Carolina certificate number 23993 as a Certified Public Accountant.
2. A Bill of Information (Exhibit 1) was issued charging that, between December of 1998 and July of 2003, Respondent had embezzled approximately \$746,000.00 from his employer while serving as the company's Controller.
3. Count One of the Bill of Information alleged that Respondent "... made, uttered, and possessed forged a security, to wit check #18890 in the amount of approximately \$7,424.82, of an organization, which operated in and the activities of which affected interstate commerce, with intent to deceive other persons and organizations, all in violation of Title 18, United States Code, Sections 513 (a) and 2."
4. Count Two of the Bill of Information alleged that Respondent "... transported, transmitted, and transferred and caused to be transported, transmitted, and transferred in interstate commerce securities and money of the value of \$5,000 or more, to wit check #18890 in the amount of approximately \$7,424.82, knowing the same to have been stolen, converted, and taken by fraud, all in violation of Title 18, United States Code, Sections 2314 and 2."
5. In a Plea Agreement (Exhibit 2) signed by Respondent on October 24, 2003, Respondent agreed "to enter a voluntary plea of guilty to Counts One and two as set forth in the Bill of Information...."

Consent Order - 2
Peter Richard Gray

6. Respondent wishes to resolve this matter by consent and agrees that the Board staff and counsel may discuss this Order with the Board *ex parte*, whether or not the Board accepts this Order as written.


BASED upon the foregoing, the Board makes the following Conclusions of Law:

1. Respondent is subject to the provisions of Chapter 93 of the North Carolina General Statutes (NCGS) and Title 21, Chapter 8 of the North Carolina Administrative Code (NCAC), including the Rules of Professional Ethics and Conduct promulgated and adopted therein by the Board.
2. Respondent's actions as set out above constitute violations of NCGS 93-12 (9)a and e, and 21 NCAC 8N .0201, .0202, .0203, and .0204 (b).

BASED on the foregoing and in lieu of further proceedings under 21 NCAC Chapter 8C, the Board and Respondent agree to the following Order:

1. The Certified Public Accountant certificate issued to Respondent, Peter Richard Gray, is hereby permanently revoked.

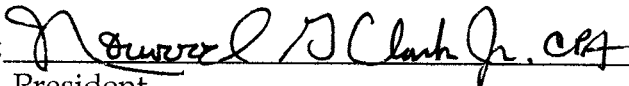
CONSENTED TO THIS THE 30th DAY OF March, 2004.


Respondent

APPROVED BY THE BOARD THIS THE 19 DAY OF APRIL, 2004.

NORTH CAROLINA STATE BOARD OF CERTIFIED
PUBLIC ACCOUNTANT EXAMINERS

BOARD
SEAL

BY: 
President

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION

UNITED STATES OF AMERICA

v.

PETER R. GRAY

DOCKET NO. 5:03CR43-V

BILL OF INFORMATION

Violations:

18 U.S.C. § 2
18 U.S.C. § 513(a)
18 U.S.C. § 2314

THE UNITED STATES ATTORNEY CHARGES:

At the specified times and at all relevant times:

INTRODUCTION

1. From in or about December of 1998 through in or about July of 2003, the defendant, PETER R. GRAY, embezzled approximately \$746,000 from his then employer while serving as the company's Controller. In order to accomplish this embezzlement, defendant GRAY stole blank checks from his then employer and forged the signature of the company's Chief Financial Officer on approximately 115 checks made payable to himself in varying amounts. Defendant GRAY then mailed the checks from North Carolina to New York and elsewhere for deposit into his personal bank and investment accounts.

COUNT ONE

2. The Government realleges and incorporates by reference herein all of the allegations contained in paragraph 1 of the Information, and further alleges that:

3. On or about September 11, 2001, in Iredell County, within the Western District of North Carolina, and elsewhere, the defendant,

PETER R. GRAY

made, uttered, and possessed forged a security, to wit check # 18890 in the amount of approximately \$7,424.82, of an organization, which operated in and the activities of which affected interstate commerce, with intent to deceive other persons and organizations, all in violation of Title 18, United

States Code, Sections 513(a) and 2.

COUNT TWO

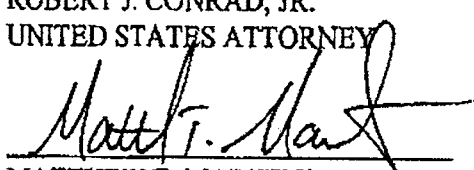
4. The Government realleges and incorporates by reference herein all of the allegations contained in paragraph 1 of the Information, and further alleges that:

5. On or about September 11, 2001, in Iredell County, within the Western District of North Carolina, and elsewhere, the defendant,

PETER R. GRAY

transported, transmitted, and transferred and caused to be transported, transmitted, and transferred in interstate commerce securities and money of the value of \$5,000 or more, to wit check # 18890 in the amount of approximately \$7,424.82, knowing the same to have been stolen, converted, and taken by fraud, all in violation of Title 18, United States Code, Sections 2314 and 2.

ROBERT J. CONRAD, JR.
UNITED STATES ATTORNEY



MATTHEW T. MARTENS
ASSISTANT UNITED STATES ATTORNEY

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION

FILED
CHARLOTTE, N.C.

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UNITED STATES OF AMERICA

v.

PETER R. GRAY

DOCKET NO. 5:09-cr-00143

PLEA AGREEMENT

U.S. DISTRICT COURT
W. DIST. OF N.C.

NOW COMES the United States of America, by and through Robert J. Conrad, Jr., United States Attorney for the Western District of North Carolina (Matthew T. Martens, Assistant United States Attorney, appearing), and the defendant, Peter R. Gray, in person and through counsel, Robert M. Davis, Esq., and respectfully inform the Court that they have reached the following agreement:

I. Plea

1. The defendant agrees to enter a voluntary plea of guilty to Counts One and two as set forth in the Bill of Information, and admits to being in fact guilty as charged in Counts One and Two.

2. If the Court finds the defendant's plea of guilty to Counts One and Two of the Bill of Information to be voluntarily and knowingly made, and accepts the plea as agreed to by the parties, then the United States agrees that it will not prosecute the defendant for additional offenses based on the same acts or transactions encompassed by Counts One and Two of the Bill of Information.

3. The defendant agrees that the Court may consider any uncharged counts and all pertinent information as "relevant conduct." *United States Sentencing Guidelines* [U.S.S.G.] § 1B1.3.

II. Sentence

4. The defendant is aware that the statutory maximum sentences for each count are as follows:

Count One: a \$250,000 fine, no more than ten (10) years imprisonment, or both, and no more than three (3) years supervised release.

Count Two: a \$250,000 fine, no more than ten (10) years imprisonment, or both, and no more than three (3) years supervised release.

5. The defendant understands that supervised release is a term of supervision that runs consecutively to any sentence of incarceration and that if the Court imposes a term of supervised release, the United States Probation Office will supervise him during that term and will require that he make regular reports and visits to its office. The defendant understands that a violation of the conditions of supervised release may subject him to an additional period of incarceration up to the maximum term of years imposed as supervised release.

6. The defendant is aware that any sentence imposed will be in conformity with the *United States Sentencing Guidelines*, and that a sentence imposed under the Guidelines is without parole. The defendant is further aware that the Court has not yet determined the sentence, that any estimate from any source, including defense counsel, of the likely sentence is a prediction rather than a promise, and that the Court has the final discretion to impose any sentence up to the statutory maximum for each count. The defendant further understands that no recommendations or agreements by the United States are binding upon the Court.

7. With regard to the Sentencing Guidelines, the defendant and the United States agree to recommend to the Court, pursuant to Fed. R. Crim. P. 11(c)(1)(B), as follows:

a. The amount of "loss" that was known to or reasonably foreseeable by the defendant was in excess of \$400,000. The defendant understands that "loss" under U.S.S.G. § 2B1.1, 2F1.1, or 2T4.1 of the *United States Sentencing Guidelines* may be different from, greater, or lesser than "restitution" under 18 U.S.C. § 3556.

b. The offense level for the subject offenses are as follows:

Base Offense Level [U.S.S.G. § 2B1.1(a)]: 6

Specific Characteristics:

Loss amount (greater than \$400K) [USSG § 2B1.1(b)(1)(H)] 14

Sophisticated means [USSG § 2B1.1(b)(8)] 2

Abuse of position of private trust [USSG § 3B1.3] + 2

Adjusted Offense Level: 24

c. Provided that the defendant acknowledges to the Government, the Probation Office, and the Court the nature and extent of all relevant criminal conduct, the Government will recommend a two-level reduction in offense level pursuant to U.S.S.G. § 3E1.1(a).

Provided that the defendant has assisted authorities in the investigation or

prosecution of his own misconduct by timely notifying authorities of his intention to enter a plea of guilty, the Government will recommend an additional one-level reduction in offense level pursuant to U.S.S.G. § 3E1.1(b).

However, the defendant understands that any reduction in offense level is ultimately for the Court's determination.

d. The defendant and the United States agree that either party may seek or otherwise argue in favor of a departure from the "applicable guideline range" (U.S.S.G. § 5C1.1).

e. Notwithstanding any recommendations in the Plea Agreement as to the offense level, if the Probation Office determines from the defendant's criminal history that U.S.S.G. § 4B1.1 (Career Offender), or a statutory minimum sentence applies, then that provision will be used in determining the sentence.

f. No other Chapter 2, 3, 4, or 5 enhancements apply.

8. The defendant agrees to pay full restitution, regardless of the resulting loss amount, which restitution will be included in the Court's Order of Judgment. The defendant agrees that such restitution will include all victims directly or indirectly harmed by the defendant's "relevant conduct," including conduct pertaining to any dismissed counts or uncharged conduct, as defined by U.S.S.G. § 1B1.3, regardless of whether such conduct constitutes an "offense" under 18 U.S.C. §§ 3663 or 3663A. The defendant consents to a civil judgment in state or federal court concerning a claim filed by a "victim" as defined in 18 U.S.C. §§ 3663(a)(2) and 3663A(a)(2). The defendant understands that with a Judgment and Commitment Order that requires the payment of restitution, a lien will be filed on his property. Defendant also understands that his obligation to make restitution shall last for twenty years after the entry of the judgment, release from imprisonment, or until his death. 18 U.S.C. § 3613.

For the preparation of his Presentence Report, the defendant agrees to cooperate fully with and make a full disclosure of all current and projected assets and property to the United States Probation Office. If the defendant is ordered to serve a term of supervised release or probation, he agrees to make a full disclosure of his assets and property to the United States Probation Office prior to the termination of his supervised release or probation. If the defendant should fail to make the aforementioned full disclosures, then the United States will be relieved of its obligations under the Plea Agreement, but the defendant will not be allowed to withdraw his guilty plea.

9. The parties agree that the Court shall set the amount of fine from the Fine Table in U.S.S.G. § 5E1.2.

10. If more than \$500.00 in restitution, fines, and/or assessment is owed to the United

States government, a lien will be filed. The defendant understands that if a lien is filed against his property, his obligation to pay restitution shall last for twenty years after any imprisonment ordered or until his death. 18 U.S.C. § 3613.

11. The defendant hereby agrees to pay the total amount required for assessment (\$200) to the Clerk, United States District Court, before 5:00 p.m. on the date of pleading guilty. The defendant further agrees to participate in the Inmate Financial Responsibility Program to the extent necessary to fulfill all financial obligations due and owing under this agreement and the law.

III. Procedure

12. The defendant agrees that a duly-qualified federal Magistrate Judge may conduct the hearing required by Fed. R. Crim. P. 11.

13. With the Court's permission, the factual basis, as required by Fed. R. Crim. P. 11(b)(3), will be deferred until the time of sentencing. The defendant stipulates that there is a factual basis for the plea of guilty and that the Court may use the offense conduct set out in the Presentence Report, except any facts to which the defendant has objected, to establish a factual basis for the defendant's plea.

IV. Waivers

14. The defendant understands and agrees that if he should fail to specifically perform or to fulfill completely each and every one of his obligations under this Plea Agreement, then the United States will be relieved of its obligations under the agreement, but the defendant will not be allowed to withdraw his guilty plea.

15. The defendant is aware that the law provides certain limited rights to withdraw a plea of guilty. The defendant has discussed these rights with defense counsel and knowingly and expressly waives any right to withdraw the plea once the District Court has accepted it.

16. The defendant acknowledges that Federal Rule of Criminal Procedure 11(f) and Federal Rule of Evidence 410 are rules which ordinarily limit the admissibility of statements made by a defendant in the course of plea discussions or plea proceedings if a guilty plea is later withdrawn. The defendant knowingly and voluntarily waives the rights which arise under these Rules. As a result of this waiver, he understands and agrees that any statements which are made in the course of his guilty plea or in connection with his cooperation pursuant to this plea agreement will be admissible against him for any purpose in any criminal or civil proceeding if his guilty plea is subsequently withdrawn.

17. The defendant understands and agrees that by pleading guilty, he is expressly waiving the following rights:

- a. to be tried by a jury;
- b. to be assisted by an attorney at trial;
- c. to confront and cross-examine witnesses; and,
- d. not to be compelled to incriminate himself.

18. Defendant and defendant's counsel warrant that they have discussed: (1) defendant's rights pursuant to 18 U.S.C. § 3742, 28 U.S.C. § 2255, and similar authorities to contest a conviction and/or sentence through an appeal or post-conviction after entering into a plea agreement; (2) whether or not there are potential issues which might be relevant to an appeal or post-conviction action; and (3) the possible impact of any such issue on the desirability to the defendant of entering into this plea agreement.

Defendant, in exchange for the concessions made by the United States in this plea agreement, waives all such rights to contest the conviction and/or the sentence except for: (1) claims of ineffective assistance of counsel; (2) prosecutorial misconduct; or (3) the sentence, but only to the extent defendant contests the sentence that one or more findings on guideline issues were inconsistent with the explicit stipulations contained in any paragraph in the plea agreement filed herein, or on the basis of an unanticipated issue that arises during the sentencing hearing and which the District Judge finds and certifies to be of such an unusual nature as to require review by the Fourth Circuit Court of Appeals.

Also, in exchange for the concessions made by the United States, defendant agrees that the United States preserves all its rights and duties with respect to appeal as set forth in 18 U.S.C. § 3742(b), while the defendant waives all rights to appeal or collaterally attack the sentence of conviction with three the exceptions set for above. This agreement does not limit the United States in its comments in or responses to any appellate or post-conviction matters.

19. The defendant is aware that 111 Stat. 2440, 2520 (1997), the so-called "Hyde Amendment," authorizes courts in criminal cases to award to certain prevailing defendants attorneys' fees and other litigation expenses. In exchange for concessions made by the Government in this Agreement, the defendant voluntarily and knowingly waives any claim that he might assert under this statute based in whole or in part on the Government's agreement in paragraph 2 to dismiss or not charge certain counts.

20. The defendant waives all rights, whether asserted directly or by a representative, to request or to receive from any department or agency of the United States any records pertaining to the investigation or prosecution of this case, including without limitation any records that may be sought under the Freedom of Information Act, 5 U.S.C. § 552, or the Privacy Act of 1974, 5 U.S.C. § 552a.

21. This agreement does not bind the Internal Revenue Service or affect its authority to collect taxes.

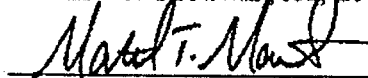
V. Conclusion

22. The defendant understands that if he breaches this Plea Agreement, or violates any federal, state or local law, or any order of any court, including any condition of pre-trial or pre-sentence, or post-sentence release, the United States will be relieved of its obligations under this Plea Agreement, but the defendant will not be allowed to withdraw his guilty plea. The United States will be free to proceed on any properly-filed dismissed, pending, superseding, or additional charges.

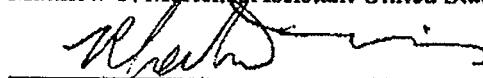
23. There are no agreements, representations, or understandings between the parties in this case, other than those explicitly set forth in this Plea Agreement and none will be entered into unless executed in writing and signed by all parties.

SO AGREED:

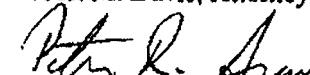
ROBERT J. CONRAD, JR. UNITED STATES ATTORNEY


Matthew T. Martens, Assistant United States Attorney

DATED: 10-28-03


Robert M. Davis, Attorney for Defendant

DATED: 10-24-03


Peter R. Gray, Defendant

DATED: 10-24-03

NORTH CAROLINA
WAKE COUNTY

BEFORE THE NORTH CAROLINA STATE BOARD OF
CERTIFIED PUBLIC ACCOUNTANT EXAMINERS
CASE #: 200403-011

IN THE MATTER OF:
Joel Moran Wilson, #24462
Respondent

CONSENT ORDER

THIS CAUSE, coming before the Board at its offices at 1101 Oberlin Road, Raleigh, Wake County, North Carolina, with a quorum present. Pursuant to NCGS 150B-41 and 150B-22, the Board and Respondent stipulate the following Findings:

1. Respondent was the holder of North Carolina certificate number 24462 as a Certified Public Accountant.
2. A Bill of Information (Exhibit 1) was issued charging that, during the period from August of 1994 through December of 2000, Respondent and codefendants "did unlawfully, willfully, and knowingly conspire, confederate, and agree together and with each other and with other individuals, both known and unknown to the United States Attorney, to defraud the United States for the purpose of impeding, impairing, obstructing, and defeating the lawful Government functions of the Internal Revenue Service of the Treasury Department in the ascertainment, computation, assessment, and collection of the revenue: to wit, income taxes, and during the course of the conspiracy did commit one or more overt acts...."
3. In a February 27, 2004, Plea Agreement (Exhibit 2), Respondent agreed "to enter a voluntary plea of guilty to Count One as set forth in the Bill of Information...."
4. In said Plea Agreement, Respondent agreed to pay full restitution and to cooperate with the United States Government in its prosecution of other related parties.
5. Said Plea Agreement also required that, within ten (10) days of the entry of his plea, Respondent inform "any licensing authorities" of the charges against him and of his plea. Further, Respondent agreed not to perform any accounting services except to wind up, under the supervision of a duly licensed CPA, current services being provided to clients. Respondent also agreed not to seek the reinstatement of his certificate "... until the completion of any period of supervised release imposed by the District Court as a result of his plea of guilty."

Consent Order - 2
Joel Moran Wilson

6. On or about March 4, 2004, Respondent contacted Board staff to inform the Board of the charges against him and of his plea agreement. Respondent discussed the surrender of his certificate and possible Board actions which may be taken in response to the charges and guilty plea.
7. On March 8, 2004, the Board received Respondent's letter dated March 4, 2004, Respondent's surrendered CPA certificate, a copy of the Bill of Information, and a copy of the Plea Agreement.
8. Respondent wishes to resolve this matter by consent and agrees that the Board staff and counsel may discuss this Order with the Board *ex parte*, whether or not the Board accepts this Order as written.


BASED upon the foregoing, the Board makes the following Conclusions of Law:

1. Respondent is subject to the provisions of Chapter 93 of the North Carolina General Statutes (NCGS) and Title 21, Chapter 8 of the North Carolina Administrative Code (NCAC), including the Rules of Professional Ethics and Conduct promulgated and adopted therein by the Board.
2. Respondent's actions as set out above constitute violations of NCGS 93-12 (9)a and e, and 21 NCAC 8N .0201, .0202, .0203, and .0204 (b).

BASED on the foregoing and in lieu of further proceedings under 21 NCAC Chapter 8C, the Board and Respondent agree to the following Order:

1. The Certified Public Accountant certificate issued to Respondent, Joel M. Wilson, is hereby permanently revoked.

CONSENTED TO THIS THE 30th DAY OF March, 2004.

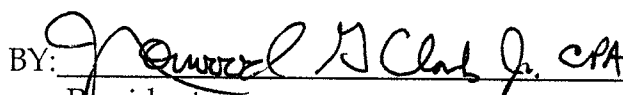


Respondent

APPROVED BY THE BOARD THIS THE 19 DAY OF April, 2004.

NORTH CAROLINA STATE BOARD OF CERTIFIED
PUBLIC ACCOUNTANT EXAMINERS

BOARD
SEAL

BY: 

President

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

UNITED STATES OF AMERICA

) DOCKET NO.
)
)
)

v.

BILL OF INFORMATION

JOEL WILSON

) Violations:
)
)

18 U.S.C. § 371

THE UNITED STATES ATTORNEY CHARGES:

COUNT ONE

Beginning in or about August 1994 and continuing thereafter until in or about December 2000, in Mecklenburg County, within the Western District of North Carolina, and elsewhere,

JOEL WILSON

did unlawfully, willfully, and knowingly conspire, confederate, and agree together and with each other and with other individuals, both known and unknown to the United States Attorney, to defraud the United States for the purpose of impeding, impairing, obstructing, and defeating the lawful Government functions of the Internal Revenue Service of the Treasury Department in the ascertainment, computation, assessment, and collection of the revenue: to wit, income taxes, and during the course of the conspiracy did commit one or more overt acts within the Western District of North Carolina.

In violation of Title 18, United States Code, Section 371.

Exhibit 1

The undersigned asserts, under oath, that probable cause exists to believe that Joel Wilson committed the crimes alleged in this Bill of Information.

JOSHUA B. HOWARD
Assistant United States Attorney

Sworn to and subscribed before me
this the ____ day of February, 2004.

NOTARY PUBLIC
STATE OF NORTH CAROLINA
____ COUNTY

My Commission Expires: _____

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

FILED
IN COURT
CHARLOTTE, N. C.
MAR 4 2004

UNITED STATES OF AMERICA

v.

JOEL WILSON

) DOCKET NO.
) 3:04CR43-MCK
) PLEA AGREEMENT
)
)
)

U. S. DISTRICT COURT
W. DIST. OF N. C.

NOW COMES the United States of America, by and through Robert J. Conrad, Jr., United States Attorney for the Western District of North Carolina, and the defendant, JOEL WILSON, in person and through counsel, Edward T. Hinson, Jr., and respectfully inform the Court that they have reached the following agreement:

I. Plea

1. The defendant agrees to enter a voluntary plea of guilty to Count One as set forth in a Bill of Information to be filed contemporaneously with this Plea Agreement and admits to being in fact guilty as charged in Count One of that Bill.

II. Sentence

2. The defendant is aware that the statutory minimum and maximum sentences for each count are as follows:

Count One: a \$ 250,000 fine, no more than five years imprisonment, or both, and no more than three years of supervised release.

3. The defendant understands that supervised release is a term of supervision that runs consecutively to any sentence of incarceration and that if the Court imposes a term of supervised release, the United States Probation Office will supervise him during that term and will require that he make regular reports and visits to its office. The defendant understands that a violation of the conditions of supervised release may subject him to an additional period of incarceration up to the maximum term of years imposed as supervised release.

4. The defendant is aware that any sentence imposed will be in conformity with the *United States Sentencing Guidelines* [U.S.S.G.], and that a sentence imposed under the Guidelines is without parole. The defendant is further aware that the Court has not yet determined the sentence, that any estimate from any source, including defense counsel, of the likely sentence is a prediction rather than a promise, and that the Court has the final discretion to impose any sentence up to the statutory maximum for each count. The defendant further understands that no recommendations or agreements by the United States are binding upon the Court.

Exhibit 2

5. With regard to the Sentencing Guidelines, the defendant and the United States, pursuant to Fed. R. Crim. P. 11(c)(1)(B), agree to recommend to the Court as follows:

- a. The United States Sentencing Guidelines effective November 1, 2000 apply to this matter.
- b. The amount of loss that was known to or reasonably foreseeable by the defendant was more than \$2.5 million but less than \$5 million.

The defendant understands that "loss" under U.S.S.G. § 2B1.1, 2F1.1, or 2T4.1 of the *United States Sentencing Guidelines* may be different from, greater, or lesser than "restitution" under 18 U.S.C. § 3556.

- c. The offense level for the subject offense is as follows:

Base Offense Level [§ 2T1.9 with reference to §§ 2T1.4 and 2T4.1]: 21

Specific Characteristics:

- | | |
|--|----|
| • Sophisticated Concealment [U.S.S.G. § 2T4.1] | +2 |
| • Use of Special Skill [U.S.S.G. § 3B1.3] | +2 |

Adjusted Offense Level: 25

- d. Provided that the defendant acknowledges to the government, the Probation Office, and the Court the nature and extent of all relevant criminal conduct, the government will recommend a two-level reduction in offense level pursuant to U.S.S.G. § 3E1.1(b)(2).

Provided that the defendant has timely provided information to the government concerning his involvement in the offense charged, or has timely notified authorities of an intention to plead guilty, the defendant will receive an additional one-level reduction pursuant to U.S.S.G. § 3E1.1(b)(2).

However, the defendant understands that any reduction in offense level is ultimately for the Court's determination.

- e. The defendant and the United States agree that the sentence will be within "the applicable guideline range" (U.S.S.G. § 5C1.1) and that neither party will seek a departure from that range.

- f. Notwithstanding any recommendations in the Plea Agreement as to the offense level, if the Probation Office determines from the defendant's criminal history

that U.S.S.G. § 4B1.1 (Career Offender), or a statutory minimum sentence applies, then that provision will be used in determining the sentence.

g. No other Chapter 2, 3, 4, or 5 enhancements or reductions apply.

6. The defendant agrees to pay full restitution, regardless of the resulting loss amount, which restitution will be included in the Court's Order of Judgment. The defendant agrees that such restitution will include all victims directly or indirectly harmed by the defendant's "relevant conduct," including conduct pertaining to any dismissed counts or uncharged conduct, as defined by U.S.S.G. § 1B1.3, regardless of whether such conduct constitutes an "offense" under 18 U.S.C. §§ 3663 or 3663A. The defendant consents to a civil judgment in state or federal court concerning a claim filed by a "victim" as defined in 18 U.S.C. §§ 3663(a)(2) and 3663A(a)(2). The defendant understands that with a Judgment and Commitment Order that requires the payment of restitution, a lien will be filed on his property. Defendant also understands that his obligation to make restitution shall last for twenty years after the entry of the judgment, release from imprisonment, or until his death. 18 U.S.C. § 3613.

For the preparation of his Presentence Report, the defendant agrees to cooperate fully with and make a full disclosure of all current and projected assets and property to the United States Probation Office. If the defendant is ordered to serve a term of supervised release or probation, he agrees to make a full disclosure of his assets and property to the United States Probation Office prior to the termination of his supervised release or probation. If the defendant should fail to make the aforementioned full disclosures, then the United States will be relieved of its obligations under the Plea Agreement, but the defendant will not be allowed to withdraw his guilty plea.

7. The parties agree that the Court shall set the amount of fine from the Fine Table in U.S.S.G. § 5E1.2.

8. If more than \$500.00 in restitution, fines, and/or assessment is owed to the United States government, a lien will be filed. The defendant understands that if a lien is filed against his property, his obligation to pay restitution shall last for twenty years after any imprisonment ordered or until his death. 18 U.S.C. § 3613.

9. The defendant hereby agrees to pay the total amount required for assessment (\$100) to the Clerk, United States District Court, before 5:00 p.m. on the date of pleading guilty. The defendant further agrees to participate in the Inmate Financial Responsibility Program to the extent necessary to fulfill all financial obligations due and owing under this agreement and the law.

III. Procedure

10. The defendant agrees that a duly-qualified Federal Magistrate Judge may conduct the hearing required by Fed. R. Crim. P. 11.

11. With the Court's permission, the factual basis, as required by Fed. R. Crim. P. 11(b)(3), will be deferred until the time of sentencing. The defendant stipulates that there is a factual basis for the plea of guilty and that the Court may use the offense conduct set out in the Presentence Report, except any facts to which the defendant has objected, to establish a factual basis for the defendant's plea.

IV. Waivers

12. The defendant understands and agrees that if he should fail to specifically perform or to fulfill completely each and every one of his obligations under this Plea Agreement, then the United States will be relieved of its obligations under the agreement, but the defendant will not be allowed to withdraw his guilty plea.

13. The defendant is aware that the law provides certain limited rights to withdraw a plea of guilty. The defendant has discussed these rights with defense counsel and knowingly and expressly waives any right to withdraw the plea once the District Court has accepted it.

14. The defendant acknowledges that Federal Rule of Criminal Procedure 11(f) and Federal Rule of Evidence 410 are rules which ordinarily limit the admissibility of statements made by a defendant in the course of plea discussions or plea proceedings if a guilty plea is later withdrawn. The defendant knowingly and voluntarily waives the rights which arise under these Rules. As a result of this waiver, he understands and agrees that any statements which are made in the course of his guilty plea or in connection with his cooperation pursuant to this plea agreement will be admissible against him for any purpose in any criminal or civil proceeding if his guilty plea is subsequently withdrawn.

Within 10 days of the entry of his plea in court, the defendant will inform all professional accounting organizations of which he is a member, and any licensing authorities which may regulate the defendant's provision of public accounting services, of his plea and the offense to which he is pleading guilty. The defendant will not perform public accounting services after entry of his plea, except to wind up services for existing clients under the supervision of a certified public accountant in good standing. The defendant agrees not to take any steps to seek reinstatement of his certification as a public accountant in the State of North Carolina or elsewhere until the completion of any period of supervised release imposed by the District Court as a result of his plea of guilty.

15. The defendant understands and agrees that by pleading guilty, he is expressly waiving the following rights:

- a. to be tried by a jury;
- b. to be assisted by an attorney at trial;
- c. to confront and cross-examine witnesses; and,
- d. not to be compelled to incriminate himself.

16. Defendant and defendant's counsel warrant that they have discussed: (1) defendant's rights pursuant to 18 U.S.C. § 3742, 28 U.S.C. § 2255, and similar authorities to contest a conviction and/or sentence through an appeal or post-conviction action after entering into a plea agreement; (2) whether or not there are potential issues which might be relevant to an appeal or post-conviction action; and (3) the possible impact of any such issue on the desirability to the defendant of entering into this plea agreement.

Defendant, in exchange for the concessions made by the United States in this plea agreement, waives all such rights to contest the conviction and/or the sentence except for: (1) claims of ineffective assistance of counsel; (2) prosecutorial misconduct; or (3) the sentence, but only to the extent defendant contests the sentence on the basis that one or more findings on guideline issues were inconsistent with the explicit stipulations contained in any paragraph in the plea agreement filed herein, or on the basis of an unanticipated issue that arises during the sentencing hearing and which the District Judge finds and certifies to be of such an unusual nature as to require review by the Fourth Circuit Court of Appeals.

Also, in exchange for the concessions made by the United States, defendant agrees that the United States preserves all its rights and duties with respect to appeal as set forth in 18 U.S.C. § 3742(b), while the defendant waives all rights to appeal or collaterally attack the sentence of conviction with three the exceptions set for above. This agreement does not limit the United States in its comments in or responses to any post-conviction matters.

17. The defendant waives all rights, whether asserted directly or by a representative, to request or to receive from any department or agency of the United States any records pertaining to the investigation or prosecution of this case, including without limitation any records that may be sought under the Freedom of Information Act, 5 U.S.C. § 552, or the Privacy Act of 1974, 5 U.S.C. § 552a.

V. Assistance to the Government

18. If requested by the United States, but only if so requested, the defendant agrees to cooperate with the United States, including but not limited to the following:

a. The defendant will provide truthful information about the subject charges and about any other criminal activity within the defendant's knowledge to any government agent or agency that the United States designates.

b. The defendant will testify truthfully in any trial, hearing, or grand jury proceeding, including, but not limited to, testimony against any co-defendants, as the United States designates.

c. The defendant will truthfully disclose all monies, negotiable instruments, securities, or other things of value that are proceeds of or have been involved in, or have been used or intended to be used to facilitate a violation of state or federal law. The

1983
defendant further agrees to voluntarily forfeit said property to the United States.

d. In the event that the defendant's cooperation includes testifying, the defendant hereby waives payment of any witness fees or expenses to which he may be otherwise entitled pursuant to 18 U.S.C. § 1821.

e. The defendant understands that the United States desires only truthful and accurate information and testimony and, in fact, that knowingly giving false information or testimony can be prosecuted as an additional criminal offense.

Further, if the defendant knowingly gives false testimony, the United States will be relieved of its obligations under this Plea Agreement, except that the defendant's plea of guilty and the resulting guilty verdict will stand.

f. The defendant will not violate any federal, state, or local law, or any order of any court, including any conditions of pretrial, pre-sentence, or post-sentence release.

Nothing that the defendant discloses pursuant to this Plea Agreement will be used against him in any other criminal proceeding, subject to the following exceptions:

1. the United States or other jurisdiction may use any and all relevant information regarding crimes of violence;
2. the United States may use any and all information as necessary in a prosecution for perjury, or in any trial for impeachment or rebuttal;
3. if the defendant withdraws his plea of guilty, the United States may use any and all disclosures in any subsequent trials or criminal proceedings;
4. if the defendant violates any of the terms of this Plea Agreement, including the obligation to provide truthful information, then the United States may use any and all disclosures in subsequent trials or criminal proceedings; and,
5. the United States may make indirect use of any information that the defendant provides, including investigative leads or other witnesses.

g. The defendant's obligation under this section is a continuing one, and will continue after sentencing until all investigations and/or prosecutions to which the defendant's cooperation may be relevant have been completed. This provision is a material condition of this Plea Agreement and of all benefits that accrue to the defendant pursuant to this agreement.

In the interests of fulfilling all obligations under this section, the defendant agrees to waive all rights under Chapters 213 and 208 of Title 18 until such time as the United

States determines that all relevant investigations and/or prosecutions have been completed.

h. The defendant fully understands that any breach of this agreement, including but not limited to withholding information, misleading the United States or any law enforcement officer, or failing to testify truthfully at any trial, grand jury, or other judicial proceeding, will allow the government, in its sole discretion, to withdraw from its obligations under this Plea Agreement. In such event, the United States will be free to proceed on any properly-filed pending, superseding, or additional charges, including any charges dismissed pursuant to this agreement.

19. When and if the defendant assists the government as described above:

a. The United States, in its sole discretion, will determine whether said assistance has been substantial.

b. Upon a determination that the defendant has rendered substantial assistance, the government may make a motion pursuant to U.S.S.G. § 5K1.1 for imposition of a sentence below the applicable Sentencing Guidelines. The United States may also, within its sole discretion, move the Court pursuant to 18 U.S.C. § 3553(e) to impose a sentence below any applicable statutory mandatory minimum.

The defendant recognizes that the Court cannot depart below the Sentencing Guidelines for substantial assistance absent a motion from the United States. The defendant further recognizes that, even if the United States makes a recommendation pursuant to U.S.S.G. § 5K1.1, the Court cannot depart below the statutory minimum unless the United States also includes a specific recommendation pursuant to 18 U.S.C. § 3553(e).

c. Regardless of the nature and extent of any substantial assistance that the defendant renders, the United States will not move for a downward departure if the defendant also knowingly furnishes information that is materially false.

d. Any determination that the defendant has failed to provide substantial assistance or has knowingly provided false information is within the sole discretion of the United States, and the defendant waives all objections and rights of appeal or collateral attack of such a determination.

e. The defendant understands that if the United States makes a motion for downward departure, the motion is not binding on the District Court. The Court will determine in its discretion whether to grant or deny such departure and the extent of the departure.

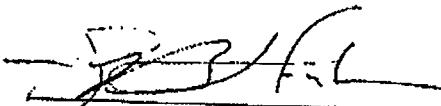
VI. Conclusion

20. The defendant understands that if he breaches this Plea Agreement, or violates any federal, state or local law, or any order of any court, including any condition of pre-trial or pre-sentence, or post-sentence release, the United States will be relieved of its obligations under this Plea Agreement, but the defendant will not be allowed to withdraw his guilty plea. The United States will be free to proceed on any properly-filed dismissed, pending, superseding, or additional charges.

21. There are no agreements, representations, or understandings between the parties in this case, other than those explicitly set forth in this Plea Agreement and none will be entered into unless executed in writing and signed by all parties.


SO AGREED:

ROBERT J. CONRAD, JR., UNITED STATES ATTORNEY



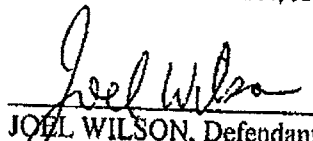
JOSH HOWARD, Assistant United States Attorney

DATED: 2/27/04



EDWARD T. HINSON, JR., Attorney for Defendant

DATED: 2/19/04



JOEL WILSON, Defendant

DATED: 2/19/04

NORTH CAROLINA
WAKE COUNTY

BEFORE THE NORTH CAROLINA STATE BOARD OF
CERTIFIED PUBLIC ACCOUNTANT EXAMINERS
CASE #: 200312-073

IN THE MATTER OF:
Christopher Mandalieris, #17304
Respondent

CONSENT ORDER

THIS CAUSE, coming before the Board at its offices at 1101 Oberlin Road, Raleigh, Wake County, North Carolina, with a quorum present. Pursuant to NCGS 150B-41 and 150B-22, the Board and Respondent stipulate the following Findings:

1. Respondent is the holder of North Carolina certificate number 17304 as a Certified Public Accountant.
2. Respondent represented to the Board on his 2003-2004 individual certificate renewal that he had obtained thirty-one (31) hours of continuing professional education (CPE) in 2002, in addition to twenty (20) carryforward hours.
3. While he was completing his plans for completing 2003 CPE on Friday September 12, 2003, Respondent discovered that he had misread the CPE report from his former employer and had actually completed only fifteen (15) hours of CPE during 2002, in addition to twenty (20) carryforward hours, leaving him five (5) hours short of the forty (40) hour requirement to renew his CPA certificate for 2003-2004.
4. On Monday, September 15, 2003, Respondent drove to Raleigh and reported the error to a Board representative in person. He followed up that visit with a letter of September 17, 2003, to the Board explaining the error and the circumstances of the error.
5. There is no evidence to indicate that Respondent intentionally committed any deception or willfully violated any Board rule.
6. Respondent wishes to resolve this matter by consent and agrees that the Board staff and counsel may discuss this Order with the Board *ex parte*, whether or not the Board accepts this Order as written.

BASED upon the foregoing, the Board makes the following Conclusions of Law:

1. Respondent is subject to the provisions of Chapter 93 of the North Carolina General Statutes (NCGS) and Title 21, Chapter 8 of the North Carolina Administrative Code (NCAC), including the Rules of Professional Ethics and Conduct promulgated and adopted therein by the Board.

Consent Order - 2

Christopher Mandalieris

2. Respondent's actions as set out above constitute violations of NCGS 93-12 (8b), and 93-12 (9)e and 21 NCAC 8J .0101 (b) (2), and 8N .0203 (b)(1).

BASED on the foregoing and in lieu of further proceedings under 21 NCAC Chapter 8C, the Board and Respondent agree to the following Order:

1. Since Respondent did not have sufficient CPE for renewal at the time he submitted his erroneous certificate renewal, Respondent's application for renewal is insufficient and untimely under NCGS 150B-3(a) and his certificate is automatically forfeited pursuant to NCGS 93-12 (8b).
2. Respondent must return his forfeited certificate to the Board with this signed Consent Order.
3. Respondent may apply for reinstatement of his certificate to active status thirty (30) days from the date this Order is approved by the Board.
4. The application to return his certificate to active status shall include:
 - a. Application form,
 - b. Payment of the application fee,
 - c. 3 moral character affidavits, and
 - d. Forty (40) hours of CPE in the twelve (12) months preceding the application including an eight (8) hour accountancy law course provided in a group study format by the North Carolina Association of CPAs (NCACPA).
5. Respondent must obtain, within nine (9) months of the date this Order is approved by the Board, twenty (20) CPE credit hours over and above the annual forty CPE credit hours requirement and this additional CPE cannot be used for either reinstatement or renewal.

CONSENTED TO THIS THE 6th DAY OF April, 2004.

Christopher L. Mandalieris
Respondent

APPROVED BY THE BOARD THIS THE 19 DAY OF APRIL, 2004.

NORTH CAROLINA STATE BOARD OF CERTIFIED
PUBLIC ACCOUNTANT EXAMINERS

BOARD
SEAL

BY: Edward M. Clark Jr. CPA
President

NORTH CAROLINA
WAKE COUNTY

BEFORE THE NORTH CAROLINA STATE BOARD OF
CERTIFIED PUBLIC ACCOUNTANT EXAMINERS
CASE #: 200103-012

IN THE MATTER OF:
J. Derek Barnes, #18066
Respondent

BOARD ORDER

THIS CAUSE coming before the Board at its offices at 1101 Oberlin Road, Raleigh, Wake County, North Carolina, at public hearing, with a quorum present, the Board finds, based on the evidence presented at the hearing on April 19, 2004, that:

FINDINGS OF FACT

1. The parties have been properly identified.
2. The Board has jurisdiction over this matter.
3. Respondent received at least fifteen (15) days written Notice of Hearing of this Matter by personal service, certified mail, or other approved personal delivery.
4. Venue is proper and the Notice Hearing was properly held at 1101 Oberlin Road, Raleigh, North Carolina.
5. Respondent had no objection to any Board Member's participation in the Hearing of this Matter.
6. Respondent was present at the Hearing and was represented by counsel.
7. Respondent was the holder of a certificate as a Certified Public Accountant in North Carolina and is therefore subject to the provisions of Chapter 93 of the North Carolina General Statutes (NCGS) and Title 21, Chapter 8 of the North Carolina Administrative Code (NCAC), including the Rules of Professional Ethics and Conduct promulgated and adopted therein by the Board.
8. Respondent failed to comply with the terms of a Consent Order signed by Respondent and approved by the Board on December 18, 2001.

9. Respondent's repeated indifferences to the laws and rules regarding the unauthorized use of the CPA title caused the Board to issue a Notice of Proposed Action and Show Cause Order (Show Cause Order) on April 15, 2002.
10. Respondent failed to provide any good faith defenses to the allegations as set forth in the Show Cause Order.
11. Respondent's CPA certificate was permanently revoked in a Board Order approved by the Board on May 17, 2002.
12. Respondent filed a Motion to Strike Board Order dated May 17, 2002, and filed a Request for Hearing on June 5, 2002. Respondent, by stipulation, requests that said Motion be treated as, in effect, a Motion to Reconsider or to Modify the May 17, 2002 Order.
13. Upon Respondent's request, the July 2002 Hearing on the original Motion to Strike was postponed. During the remainder of 2002 and 2003, Respondent experienced health problems and requested additional time to submit medical and other documentation in support of his Motion. Subsequently, the Respondent requested that the Hearing be re-calendared and, pursuant to that request, the Hearing was set for April 19, 2004.

CONCLUSIONS OF LAW

1. Respondent provided the Board with some new evidence of mitigating circumstances and good faith defenses to the allegations as set forth in the Board's Show Cause Order.
2. The new evidence was not available to Respondent and could not have been presented by Respondent by reasonable due diligence prior to the date of the Show Cause Order deadline of May 1, 2002, nor prior to the date of the Board's May 17, 2002, Order.
3. Pursuant to Rule 21 NCAC 8I .0104(a), the Board may not consider a Motion to Modify the May 17, 2002, Order until May 17, 2007.
4. Nevertheless, if the Board had been aware of Respondent's new evidence, it would not have entered an Order Permanently Revoking Respondent's CPA certificate.

BASED ON THE FOREGOING, the Board orders in a vote of 7 to 0 that:

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1. The Motion to Modify is denied but the Motion to Reconsider the Board Order is approved.
2. Based upon the new evidence, the Board Orders that Respondent's CPA Certification is revoked for a specific period of time of three (3) years from the date of the May 17, 2002, Order. Thereafter, J. Derek Barnes may apply for the reinstatement of his CPA certificate.

This the 19th day of April, 2004.

NORTH CAROLINA STATE BOARD OF CERTIFIED
PUBLIC ACCOUNTANT EXAMINERS

BOARD
SEAL

BY: Harold D Clark Jr. CPA
President